

(2) If a State agency fails to submit a corrected data file that meets the compliance standards in section 1356.85 of this part and the deadline in paragraph (e)(1) of this section, ACF will make a final determination that the State is out of compliance, notify the State agency, and apply penalties as defined in section 1356.86 of this part.

[73 FR 10365, Feb. 26, 2008]

§ 1356.86 Penalties for noncompliance.

(a) *Definition of Federal funds subject to a penalty.* The funds that are subject to a penalty are the CFCIP funds allocated or reallocated to the State agency under section 477(c)(1) of the Act for the Federal fiscal year that corresponds with the reporting period for which the State agency was required originally to submit data according to section 1356.83(a) of this part.

(b) *Assessed penalty amounts.* ACF will assess penalties in the following amounts, depending on the area of non-compliance:

(1) *Penalty for not meeting file submission standards.* ACF will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the file submission standards defined in section 1356.85(a) of this part.

(2) *Penalty for not meeting certain data standards.* ACF will assess a penalty in an amount equivalent to:

(i) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the data standard for error-free data as defined in section 1356.85(b)(1) of this part.

(ii) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which

ACF makes a final determination that the State agency's data file does not comply with the outcome universe standard defined in section 1356.85(b)(2) of this part.

(iii) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for youth in foster care standard defined in section 1356.85(b)(3)(i) of this part.

(iv) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for discharged youth standard defined in section 1356.85(b)(3)(ii) of this part.

(c) *Calculation of the penalty amount.* ACF will add together any assessed penalty amounts described in paragraphs (b)(1) or (b)(2) of this section to determine the total calculated penalty result. If the total calculated penalty result is less than one percent of the funds subject to a penalty, the State agency will be penalized in the amount of one percent.

(d) *Notification of penalty amount.* ACF will advise the State agency in writing of a final determination of non-compliance and the amount of the total calculated penalty as determined in paragraph (c) of this section.

(e) *Interest.* The State agency will be liable for interest on the amount of funds penalized by the Department, in accordance with the provisions of 45 CFR 30.13.

(f) *Appeals.* The State agency may appeal, pursuant to 45 CFR part 16, ACF's final determination to the HHS Departmental Appeals Board.

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APPENDIX A TO PART 1356—NYTD DATA ELEMENTS

Element #	Element name	Responses options	Applicable population
1	State	2 digit FIPS code.	
2	Report date	CYYMM. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12).	

Element #	Element name	Responses options	Applicable population
3	Record number	Encrypted, unique person identification number.	All youth in served, baseline and follow-up populations.
4	Date of birth	CCYYMMDD. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12). DD= day (01–31).	
5	Sex	Male. Female.	
6	Race—American Indian or Alaska Native	Yes	
7	Race—Asian	No. Yes.	
8	Race—Black or African American	No. Yes.	
9	Race—Native Hawaiian or Other Pacific Islander.	No. Yes.	
10	Race—White	No. Yes.	
11	Race—Unknown	No. Yes.	
12	Race—Declined	No. Yes.	
13	Hispanic or Latino Ethnicity	No. Unknown. Declined.	
14	Foster care status—services	Yes	Served population only.
15	Local agency	No. FIPS code(s). Centralized unit.	Served population only.
16	Federally-recognized tribe	Yes. No.	
17	Adjudicated delinquent	Yes. No.	
18	Education level	Less than 6th grade 6th grade. 7th grade. 8th grade. 9th grade. 10th grade. 11th grade. 12th grade. Postsecondary education or training College, at least one semester.	
19	Special education	Yes. No.	
20	Independent living needs assessment	Yes. No.	
21	Academic support	Yes. No.	
22	Post-secondary educational support	Yes. No.	
23	Career preparation	Yes. No.	
24	Employment programs or vocational training	Yes. No.	
25	Budget and financial management	Yes. No.	
26	Housing education and home management training.	Yes. No.	
27	Health education and risk prevention	No. Yes.	
28	Family Support/Healthy Marriage Education	No. Yes.	

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Element #	Element name	Responses options	Applicable population
29	Mentoring	No. Yes.	
30	Supervised independent living	No. Yes.	
31	Room and board financial assistance	No. Yes.	
32	Education financial assistance	No. Yes.	
33	Other financial assistance	No. Yes.	
34	Outcomes reporting status	Youth Participated Youth Declined Parent Declined Youth Incapacitated Incarcerated. Runaway/Missing. Unable to locate/invite. Death. Not in sample.	Baseline and follow-up populations (with the exception of the response option "not in sample" which is applicable to 19-year olds in the follow-up only).
35	Date of outcome data collection	CCYYMMDD CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12). DD= day (01–31).	Baseline and follow-up populations.
36	Foster care status-outcomes	Yes. No.	
37	Current full-time employment	Yes. No. Declined.	
38	Current part-time employment	Yes. No. Declined.	
39	Employment-related skills	Yes. No. Declined.	
40	Social Security	Yes. No. Declined.	
41	Educational aid	Yes. No. Declined.	
42	Public financial assistance	Yes No. Not applicable. Declined.	Follow-up population <i>not</i> in foster care.
43	Public food assistance	Yes. No. Not applicable. Declined.	
44	Public housing assistance	Yes. No. Not applicable. Declined.	
45	Other financial support	Yes No. Declined.	Baseline and follow-up population.
46	Highest educational certification received	High school diploma/ GED. Vocational certificate. Vocational license. Associate's degree. Bachelor's degree. Higher degree. None of the above. Declined.	
47	Current enrollment and attendance	Yes.	

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Element #	Element name	Responses options	Applicable population
48	Connection to adult	No. Declined. Yes.	Baseline and follow-up population.
49	Homelessness	No. Declined. Yes.	
50	Substance abuse referral	No. Declined. Yes.	
51	Incarceration	No. Declined. Yes.	
52	Children	No. Declined. Yes.	
53	Marriage at child's birth	No. Declined. Yes.	
54	Medicaid	No. Declined. Yes.	
55	Other health insurance coverage	No. Declined. Yes	
56	Health insurance type—medical	No. Declined. Yes.	
57	Health insurance type—mental health	No. Declined. Yes.	
58	Health insurance type—prescription drugs	No. Declined. Yes. Don't know. Not applicable. Declined.	

[73 FR 10372, Feb. 26, 2008]

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY

Topic/element #	Question to youth and response options	Definition
INFORMATION TO COLLECT FROM ALL YOUTH SURVEYED FOR OUTCOMES, WHETHER IN FOSTER CARE OR NOT		
Current full-time employment (37)	Currently are you employed full-time? Yes No Declined	“Full-time” means working at least 35 hours per week at one or multiple jobs.
Current part-time employment (38)	Currently are you employed part-time? Yes No Declined	“Part-time” means working at least 1–34 hours per week at one or multiple jobs.
Employment-related skills (39)	In the past year, did you complete an apprenticeship, internship, or other on-the-job training, either paid or unpaid? Yes No Declined	This means apprenticeships, internships, or other on-the-job trainings, either paid or unpaid, that helped the youth acquire employment-related skills (which can include specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment).

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Topic/element #	Question to youth and response options	Definition
Social Security (40)	Currently are you receiving social security payments (Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), or dependents' payments)? Yes No Declined	These are payments from the government to meet basic needs for food, clothing, and shelter of a person with a disability. A youth may be receiving these payments because of a parent or guardian's disability, rather than his/her own.
Educational Aid (41)	Currently are you using a scholarship, grant, stipend, student loan, voucher, or other type of educational financial aid to cover any educational expenses? Yes No Declined	Scholarships, grants, and stipends are funds awarded for spending on expenses related to gaining an education. "Student loan" means a government-guaranteed, low-interest loan for students in post-secondary education.
Other financial support (45)	Currently are you receiving any periodic and/or significant financial resources or support from another source not previously indicated and excluding paid employment? Yes No Declined	This means periodic and/or significant financial support from a spouse or family member (biological, foster or adoptive), child support that the youth receives or funds from a legal settlement. This does not include occasional gifts, such as birthday or graduation checks or small donations of food or personal incidentals, child care subsidies, child support for a youth's child or other financial help that does not benefit the youth directly in supporting himself or herself.
Highest educational certification received (46).	What is the highest educational degree or certification that you have received? High school diploma/GED Vocational certificate Vocational license Associate's degree (e.g., A.A.) Bachelor's degree (e.g., B.A. or B.S.) Higher degree None of the above Declined	"Vocational certificate" means a document stating that a person has received education or training that qualifies him or her for a particular job, e.g., auto mechanics or cosmetology. "Vocational license" means a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business. An Associate's degree is generally a two-year degree from a community college, and a Bachelor's degree is a four-year degree from a college or university. "Higher degree" indicates a graduate degree, such as a Masters or Doctorate degree. "None of the above" means that the youth has not received any of the above educational certifications.
Current enrollment and attendance (47) ...	Currently are you enrolled in and attending high school, GED classes, post-high school vocational training, or college? Yes No Declined	This means both enrolled in <i>and attending</i> high school, GED classes, or post-secondary vocational training or college. A youth is still considered enrolled in and attending school if the youth would otherwise be enrolled in and attending a school that is currently out of session (e.g., Spring break, summer vacation, etc.).
Connection to adult (48)	Currently is there at least one adult in your life, other than your caseworker, to whom you can go for advice or emotional support? Yes No Declined	This refers to an adult who the youth can go to for advice or guidance when there is a decision to make or a problem to solve, or for companionship to share personal achievements. This can include, but is not limited to, adult relatives, parents or foster parents. The definition excludes spouses, partners, boyfriends or girlfriends and current caseworkers. The adult must be easily accessible to the youth, either by telephone or in person.

Topic/element #	Question to youth and response options	Definition
Homelessness (49)	<p>Have you ever been homeless? OR</p> <p>In the past two years, were you homeless at any time? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined.</p>	“Homeless” means that the youth had no regular or adequate place to live. This includes living in a car, or on the street, or staying in a homeless or other temporary shelter.
Substance abuse referral (50)	<p>Have you ever referred yourself or has someone else referred you for an alcohol or drug abuse assessment or counseling? OR</p> <p>In the past two years, did you refer yourself, or had someone else referred you for an alcohol or drug abuse assessment or counseling? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined.</p>	This includes either self-referring or being referred by a social worker, school staff, physician, mental health worker, foster parent, or other adult for an alcohol or drug abuse assessment or counseling. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use.
Incarceration (51)	<p>Have you ever been confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime? OR</p> <p>In the past two years, were you confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined.</p>	This means that the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with a crime (misdemeanor or felony) allegedly committed by the youth.
Children (52)	<p>Have you ever given birth or fathered any children that were born? OR</p> <p>In the past two years, did you give birth to or father any children that were born? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined.</p>	This means giving birth to or fathering at least one child that was born. If males do not know, answer “No.”
Marriage at Child’s Birth (53)	<p>If you responded yes to the previous question, were you married to the child’s other parent at the time each child was born? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined</p>	This means that when every child was born the youth was married to the other parent of the child.
Medicaid (54)	<p>Currently are you on Medicaid [or use the name of the State’s medical assistance program under title XIX]? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don’t know <input type="checkbox"/> Declined</p>	Medicaid (or the State medical assistance program) is a health insurance program funded by the government.

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Topic/element #	Question to youth and response options	Definition
Other Health insurance Coverage (55)	Currently do you have health insurance, other than Medicaid? Yes No Don't know Declined	"Health insurance" means having a third party pay for all or part of health care. Youth might have health insurance such as group coverage offered by employers or schools, or individual policies that cover medical and/or mental health care and/or prescription drugs, or youth might be covered under parents' insurance. This also could include access to free health care through a college, Indian Tribe, or other source.
Health insurance type—medical (56)	Does your health insurance include coverage for medical services? Yes Don't know Declined	This means that the youth's health insurance covers at least some medical services or procedures. This question is for only those youth who responded "yes" to having health insurance.
Health insurance type—mental health (57)	Does your health insurance include coverage for mental health services? Yes No Don't know Declined	This means that the youth's health insurance covers at least some mental health services. This question is for only those youth who responded "yes" to having health insurance with medical coverage.
Health insurance type—prescription drugs (58).	Does your health insurance include coverage for prescription drugs? Yes No Don't know Declined	This means that the youth's health insurance covers at least some prescription drugs. This question is for only those youth who responded "yes" to having health insurance with medical coverage.
ADDITIONAL OUTCOMES INFORMATION TO COLLECT FROM YOUTH OUT OF FOSTER CARE		
Public financial assistance (42)	Currently are you receiving ongoing welfare payments from the government to support your basic needs? [The State may add and/or substitute the name(s) of the State's welfare program]. Yes No Declined	This refers to ongoing welfare payments from the government to support your basic needs. Do not consider payments or subsidies for specific purposes, such as unemployment insurance, child care subsidies, education assistance, food stamps or housing assistance in this category.
Public food assistance (43)	Currently are you receiving public food assistance? Yes No Declined	Public food assistance includes food stamps, which are government-issued coupons or debit cards that recipients can use to buy eligible food at authorized stores. Public food assistance also includes assistance from the Women, Infants and Children (WIC) program.
Public housing assistance (44)	Currently are you receiving any sort of housing assistance from the government, such as living in public housing or receiving a housing voucher? Yes No Declined	Public housing is rental housing provided by the government to keep rents affordable for eligible individuals and families, and a housing voucher allows participants to choose their own housing while the government pays part of the housing costs. This does not include payments from the child welfare agency for room and board payments.

[73 FR 10372, Feb. 26, 2008]

APPENDIX C TO PART 1356—CALCULATING SAMPLE SIZE FOR NYTD FOLLOW-UP POPULATIONS

1. Using Finite Population Correction

The Finite Population Correction (FPC) is applied when the sample is drawn from a

population of one to 5,000 youth, because the sample is more than five percent of the population.